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3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Rajendra R. Damle, Young Lee, William C. Szeto, Robert K. Butler, H. Michael Zadikian
Assignee: Ceterus Networks, Inc.
Title: Transport of High-Bandwidth Datastreams over a Network
Serial No.: 10/074,264 Filing Date: February 12, 2002
Examiner: Unassigned Group Art Unit: 2151
Docket No.: CET0006US

Austin, Texas
August 5, 2002

BOX DAC
COMMISSIONER FOR PATENTS
Washington, D. C. 20231

PETITION UNDER 37 CFR 1.47(A) IN CONNECTION WITH AN
INVENTOR WHO CANNOT BE REACHED

Sir:

Applicants hereby submit the accompanying DECLARATION OF FACTS IN SUPPORT OF PETITION UNDER 37 CFR 1.47(A) IN CONNECTION WITH AN INVENTOR WHO CANNOT BE REACHED for each inventor who cannot be reached.

On April 30, 2002, Applicants' Attorney delivered to Mr. Zadikian's last known address a copy of the above listed application, together with the Declaration in order to obtain Mr. Zadikian's dated signature on the Declaration. A Declaration in support of these facts is enclosed herein. Mr. Zadikian did not respond.

Also enclosed are a Response to Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted mailed by the U.S.P.T.O on April 5, 2002, accompanying Declaration for Patent Application, and two month Petition for Extension of Time.

08/13/2002 AWONDAF1 00000129 502306 10074264
06 FC:122 180.00 CH

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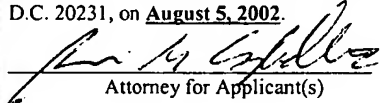
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The United States Patent and Trademark Office is hereby authorized to charge the \$130.00 Petition Fee required under 37 C.F.R. § 1.17(h) to Deposit Account 502306, along with any other fee required for this Petition.

Any inquiries concerning this matter should be directed to Applicants' attorney shown below at (512) 439-5084.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Box DAC, Commissioner For Patents, Washington, D.C. 20231, on August 5, 2002.

 815102
Attorney for Applicant(s) Date of Signature

Respectfully submitted,



Samuel G. Campbell III
Attorney for Applicant(s)
Reg. No. 42,381



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Rajendra R. Damle, Young Lee, William C. Szeto, Robert K. Butler,
H. Michael Zadikian
Assignee: Ceterus Networks, Inc.
Title: Transport of High-Bandwidth Datastreams over a Network
Serial No.: 10/074,264 Filing Date: February 12, 2002
Examiner: Unassigned Group Art Unit: 2151
Docket No.: CET0006US

BOX DAC
COMMISSIONER FOR PATENTS
Washington, D. C. 20231

**DECLARATION OF FACTS IN SUPPORT OF PETITION
UNDER 37 CFR 1.47(A) IN CONNECTION WITH AN INVENTOR WHO
CANNOT BE REACHED**

This declaration is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the inventor who cannot be reached to join in the above-identified patent application before deposit thereof in the Patent and Trademark Office.

This declaration is being made by the available person having first-hand knowledge of the facts recited therein.

I. IDENTIFICATION OF PERSON MAKING THIS DECLARATION OF FACTS

Samuel G. Campbell III

Name of declarant

4807 Spicewood Springs Road

Address of declarant

Building 4, Suite 201

Austin, Texas 78759

II. LAST KNOWN ADDRESS OF THE OMITTED INVENTOR

H. Michael Zadikian

Full name of omitted inventor

P.O. Box 1310

Last known address of omitted inventor

Santa Monica, California 90406

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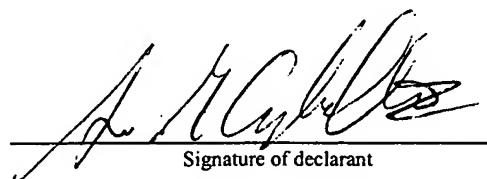
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III. DETAILS OF ATTEMPTS TO LOCATE JOINT INVENTOR TO SIGN APPLICATION PAPERS

- (1) On April 30, 2002, I contacted joint inventor H. Michael Zadikian by mail, requesting that he sign the Declaration for patent application 10/074,264 (a copy of the letter is enclosed as Exhibit A).
- (2) Mr. Zadikian did not respond.
- (3) On July 5, 2002, I contacted William Szeto of Ceterus Networks, Inc. by e-mail, to inquire as to whether any of the company's personnel had been in contact with Mr. Zadikian. Mr Szeto indicated that neither Mr. Zadikian nor any of his representatives had been in contact with any of the company's personnel (a copy of the e-mail is enclosed as Exhibit B).
- (4) On July 9, 2002, I contact Mr. Zadikian by e-mail requesting that he sign the Declaration for patent application 10/074,264. On July 9, 2002, I received an e-mail from Debra Hollifield, a representative of Mr. Zadikian, stating the address uses in (3) might have been an old address, and providing us with a new address (a copy of the e-mail is enclosed as Exhibit C).
- (5) On July 15, 2002, I contacted joint inventor H. Michael Zadikian for the second time by mail, requesting that he sign the Declaration for patent application 10/027,264 (a copy of the letter is enclosed as Exhibit D).
- (6) Mr. Zadikian did not respond.
- (7) On August 5, 2002, I contacted Alan Buehler and William Szeto of Ceterus Networks, Inc. by e-mail to inquire as to whether any of the company's personnel had been in contact with Mr. Zadikian since July 5, 2002. Mr. Buehler indicated that he has had no contact with Mr. Zadikian (a copy of the e-mail is enclosed as Exhibit E). Mr. Szeto indicated that he has had no contact with Mr. Zadikian (a copy of the e-mail is enclosed as Exhibit F).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable to fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8/5/02


Signature of declarant

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9900 Grand Hills Trail
Suite 300W

Austin
Texas 78750

T 512-794-3830
F 512-794-3831

Newport Beach, CA
San Jose, CA
San Francisco, CA

skjerven morrill LLP



April 30, 2002

VIA AIRBORNE EXPRESS

H. Michael Zadikian
919 Parkwood Court
McKinney, TX 75070

Re: U.S. Patent Application entitled "Transport of High-Bandwidth Datastreams over a Network"

Inventor(s): Rajendra R. Damle, Young Lee, William C. Szeto, Robert K. Butler, H. Michael Zadikian

Our Reference: M-9927 US

Dear Mr. Zadikian:

Enclosed is a copy of the Notice of Missing Parts – Filing Date Granted in connection with the above-identified patent application. Also enclosed for signature and filing with the U.S. Patent and Trademark Office is the following document:

➤ **Declaration for Patent Application** – must be signed by and dated by each inventor. Please confirm and/or fill in all personal information of each inventor, including citizenship.

The inventors' signatures on the declaration certify that they have reviewed and understood the specification including the claims. Failure to read and understand the specification, including the claims, before signing the declaration may jeopardize the application as well as any patent or patents, which issue from the application.

A copy of the application as filed is enclosed. If any errors are found as you review the application, claims, and drawings, please make a note of them. We cannot make changes which introduce new matter in the specification without filing a continuation-in-part application, but we can correct by amendment any typographical or grammatical errors.

After the document has been fully executed, please return the original signed and dated document to me in the enclosed Airborne Express package. This document must be filed with the U.S. Patent and Trademark Office by June 5, 2002, to avoid payment of extension fees.

Please call if you have any questions.

Best regards,

Sam G. Campbell III /ams

Samuel G. Campbell III

SGC/ams
Enclosures

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EXHIBIT A

Sam Campbell

From: William Szeto [wszeto@ceterusnetworks.com]
Sent: Friday, July 05, 2002 11:03 AM
To: Sam Campbell; Alan Buehler
Subject: RE: Signatures from Michael Zadikian

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Sam

We have not heard from Michael and any his representative concerning the signing of the patent application document. Your understanding is correct that he has not contacted us concerning the aforementioned document.

Bill

-----Original Message-----

From: Sam Campbell [mailto:scampbell@csapatent.com]
Sent: Friday, July 05, 2002 10:08 AM
To: Alan Buehler; William Szeto
Subject: Signatures from Michael Zadikian

I need to clarify, because the papers are due to be filed today, Michael's response to your trying to obtain his signatures on the formal documents that we'll be filing in response to the Notice of Missing Parts in the given case. My notes indicate that we sent copies to his last know address, and he has, as yet, been unresponsive. Please let me know if my understanding is incorrect as soon as you can.

Look forward to seeing everyone next Thursday. Please let me know if anything changes so that I can plan accordingly.

Best regards,
Sam

Sam G. Campbell III
Campbell Stephenson Ascolese, L.L.P.
4807 Spicewood Springs Road, Bldg. 4, Suite 201
Austin, TX 78759
(512) 439-5080 (voice)
(512) 439-5084 (direct)
(512) 439-5099 (fax)
scampbell@csapatents.com

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EXHIBIT B

7/9/2002

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Sam Campbell**From:** Debra Hollifield [debra@zadikian.com]**Sent:** Tuesday, July 09, 2002 4:23 PM**To:** Sam Campbell**Cc:** Michael Zadikian**Subject:** RE: Signatures for formal documents

Hi Sam,

The formal documents may have gone to an old address, would you please resend them to the following address:

Michael Zadikian

P.O. Box 1310

Santa Monica, CA 90406

Thank you,
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-----Original Message-----

From: Sam Campbell [mailto:scampbell@csapatent.com]**Sent:** Tuesday, July 09, 2002 1:50 PM**To:** michael@zadikian.com**Subject:** Signatures for formal documents

Hope things are going well. I thought I'd take this opportunity to provide my contact information (below), as well as request your signatures on the formal documents that were sent to you earlier, for the two applications filed earlier this year. Please let me know if you need us to re-send the documents for you signature, or if have any questions or concerns.

Best regards,
Sam

Sam G. Campbell III
Campbell Stephenson Ascolese, L.L.P.
4807 Spicewood Springs Road, Bldg. 4, Suite 201
Austin, TX 78759
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(512) 439-5084 (direct)
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EXHIBIT C

8/5/2002



CAMPBELL STEPHENSON ASCOLES LLP

4807 Spicewood Springs Road

Building 4, Suite 201

Austin, Texas 78759

Telephone: 512-439-5080 • Facsimile: 512-439-5099

July 15, 2002

H. Michael Zadikian
P.O. Box 1310
Santa Monica, CA 90406

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Re: U.S. Patent Application entitled "Transport of High-Bandwidth Datastreams over a Network"

Inventor(s): Rajendra R. Damle, Young Lee, William C. Szeto, Robert K. Butler, H. Michael Zadikian

Our Reference: M-9927 US

Dear Michael:

We have received the Notice to File Missing Parts – Filing Date Granted in connection with the above-identified patent application. Enclosed for signature and filing with the U.S. Patent and Trademark Office is the following document:

➤ **Declaration for Patent Application** – must be signed by and dated by each inventor. Please confirm and/or fill in all personal information of each inventor, including citizenship.

The inventors' signatures on the declaration certify that they have reviewed and understood the specification including the claims. Failure to read and understand the specification, including the claims, before signing the declaration may jeopardize the application as well as any patent or patents, which issue from the application.

A copy of the application as filed was send to you on April 30, 2002. If any errors are found as you review the application, claims, and drawings, please make a note of them. We cannot make changes which introduce new matter in the specification without filing a continuation-in-part application, but we can correct by amendment any typographical or grammatical errors.

After the document has been fully executed, please return the original signed and dated document to me in the enclosed Airborne Express package. **The absolute last day to file these documents with the USPTO is October 5, 2002. The application will go abandoned if we do not meet this deadline.**

Please call if you have any questions.

Best regards,

Samuel G. Campbell III

SGC/ams
Enclosures

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EXHIBIT D

Sam Campbell**From:** Alan Buehler [abuehler@ceterusnetworks.com]**Sent:** Monday, August 05, 2002 11:12 AM**To:** Sam Campbell; William Szeto**Subject:** RE: CET0006US ("Transport Of High-Bandwidth Datastreams Over A Network")**COPY OF PAPERS
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Sam,

I've had no contact with M. Zadikian. Bill, please confirm the same. I concur with your approach of filing today.
AB

-----Original Message-----

From: Sam Campbell [mailto:scampbell@csapatent.com]**Sent:** Monday, August 05, 2002 9:52 AM**To:** Alan Buehler; William Szeto**Subject:** CET0006US ("Transport Of High-Bandwidth Datastreams Over A Network")

A response to the Notice of Missing Parts is due today, 8/5/02, with a two month extension. We have received all the inventors signed formal documents, except for those for H. Michael Zadikian. We sent, and then re-sent, formal documents to Mr. Zadikian, but have as yet not received his signatures. In my last email on the subject, Bill had indicated that Mr. Zadikian had not been in contact with any of Ceterus' personnel. I am writing to determine if, in the interim, Mr. Zadikian has been in contact with anyone at Ceterus.

Also, given that filing after today will incur further fees, and that Mr. Zadikian has been silent on this matter, I would suggest that we proceed without Mr. Zadikian's signatures by filing the appropriate declaration (by me), indicating that such is the case. Should we receive Mr. Zadikian's signatures in the future, we can file such signed documents at that time. Please let me know if you concur.

Best regards,
Sam

Sam G. Campbell III
Campbell Stephenson Ascolese, L.L.P.
4807 Spicewood Springs Road, Bldg. 4, Suite 201
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EXHIBIT E

8/5/2002

Sam Campbell

From: William Szeto [wszeto@ceterusnetworks.com]
Sent: Monday, August 05, 2002 11:32 AM
To: Sam Campbell; Alan Buehler
Cc: sam campbell
Subject: RE: CET0006US ("Transport Of High-Bandwidth Datastreams Over A Network")

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I have not been contacted by Michael Zadikian or any of his representative. Please go ahead and file the papers as required.

-----Original Message-----

From: Sam Campbell [mailto:scampbell@csapatent.com]
Sent: Monday, August 05, 2002 11:17 AM
To: Alan Buehler; William Szeto
Cc: sam campbell
Subject: RE: CET0006US ("Transport Of High-Bandwidth Datastreams Over A Network")

Pending Bill's confirmation, we will proceed, then. Thanks for the quick response.
Best regards,
Sam

-----Original Message-----

From: Alan Buehler [mailto:abuehler@ceterusnetworks.com]
Sent: Monday, August 05, 2002 11:12 AM
To: Sam Campbell; William Szeto
Subject: RE: CET0006US ("Transport Of High-Bandwidth Datastreams Over A Network")

Sam,
I've had no contact with M. Zadikian. Bill, please confirm the same. I concur with your approach of filing today.
AB

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Also, given that filing after today will incur further fees, and that Mr. Zadikian has been silent on this matter, I would suggest that we proceed without Mr. Zadikian's signatures by filing the appropriate declaration (by me), indicating that such is the case. Should we receive Mr. Zadikian's signatures in the future, we can file such signed documents at that time. Please let me know if you concur.

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EXHIBIT F

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8/5/2002

Best regards,
Sam

Sam G. Campbell III
Campbell Stephenson Ascolese, L.L.P.
4807 Spicewood Springs Road, Bldg. 4, Suite 201
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